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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

JOHN SAYYAH & BRENDA FRANK

pro se plaintiffs

CASE NO. 1: 01-CV-459

-vs-

MEMORANDUM IN OPPOSITION  
TO PLAINTIFFS' MOTION  
FOR RECONSIDERATION BY  
DEFENDANT HERBERT E. FREEMAN

WAYNOKA PROPERTY OWNERS  
ASSOCIATION INC., ET AL  
  
defendants

SENIOR JUDGE HERMAN WEBER

Now comes Herbert E. Freeman, an attorney at law but herein a pro se defendant, who formally objects to plaintiffs' motion for reconsideration filed on December 17th of 2003 for the following reasons:

1. At the heart of plaintiffs' complaint is the allegation that Magistrate Judge Hogan was biased & prejudiced. Even if Magistrate Judge Hogan might have been biased & prejudiced, it is undisputed that Judge Hogan sua sponte disqualified himself from this matter the instant that he realized that one of his sons worked for a law firm

that had an interest in this case. Therefore this matter was correctly found to be moot by Judge Herbert Rice.

2. Judge Herbert Rice furthermore correctly concluded that any delays involving the progress of this case were due to the large general caseload carried by every judge in this district, and not to any alleged coverup of wrongdoing of Magistrate Judge Hogan by Senior Judge Weber.
3. Under Rules of Court and Rules of Civil Procedure, it is clear that procedurally such allegations, made in motion format, must be supported by appropriate exhibits. Furthermore such exhibits must not be hearsay, or the naked allegations of one or more parties to the lawsuit. At no time have plaintiffs properly appendicized a full transcript of the hearing wherein Judge Weber allegedly exercised bias & prejudice. They have on occasion seen fit to attach one page of said hearing's transcript, in an out-of-context attempt to influence the Court. They have also attached letters from parties hereto [Robert Rickling's letter of 11/10/03 and Brenda Frank's letter of 11/07/03.] Obviously this format deprives defendants of the opportunity for cross-examination, and neither was contemporaneous to the relevant hearing and proceedings.

4. On July 17th of 2003, Gary P. Frank in conjunction with his wife [and plaintiff herein] Brenda L. Frank filed for relief under Chapter VII of the Bankruptcy Act. A complete copy of the bankruptcy petition in Case No. 1: 03-CV-15578 was appendicized as an exhibit to this defendant's Objections to Plaintiffs' Motion to Enlarge Time To Object To Magistrate Merz's Report & Recommendations. The effect of this filing of this petition is multifold. First of all, the pendency of Brenda Frank's CIVIL RICO lawsuit was never mentioned under the disclosure of assets section. From this we learn that she has assigned a value of zero (-0) to this case's merit. Secondly and in the alternative, if we are to assume that this case has merit, then the real party in interest to pursue collection of that asset is the Bankruptcy Trustee, not Ms. Frank. Nowhere under Ohio's list of exempt properties is there any provision for pending Civil RICO claims. Assets (if any) that are non-exempt must be pursued & collected by the trustee, for the benefit of creditors.
5. Plaintiffs have now exhausted their procedural remedies, and must proceed in timely fashion to trial. Afterwards & only then may they reallege their allegations as assign-

ments of error before the Sixth Circuit Court of Appeals. At this point, plaintiffs' attempt to relitigate the appropriateness of Judges Hogan & Weber to sit on this case constitutes in effect an inappropriate interlocutory appeal, not an appeal of a final order as required by the Federal Rules of Appellate Procedure.

6. Plaintiffs are vexatious litigators and serial abusers of process, contentions that this defendant has maintained ab initio both in this Court and in the multiple and redundant state court actions wherein the same tactics are self-apparent. Currently plaintiffs' attempts to disqualify a "laundry list" of state court judges are before the Chief Justice of the Ohio Supreme Court and awaiting disposition. After these cases are returned to Visiting Judge Patrick Foley pursuant to a finding of no bias & prejudice, defendant will proceed against plaintiffs for sanctions and for designation of plaintiffs as "vexatious litigators" under Ohio law. Defendant herein is happy for plaintiffs to again stipulate that their actions create "humongous attorney fees which could very well be in the hundreds of thousands of dollars". [p. 2]. Notwithstanding plaintiffs' attempts to appear to be judgment-proof, defendant is confident that this Court has not interpreted "pro se" to mean "consequence-free". It is respectfully submitted that this motion is nothing more than a dilatory tactic aimed to defeat the swift and speedy administration of justice.

WHEREFORE defendant Herbert E. Freeman respectfully requests that this honorable Court dismiss plaintiffs' motion, and thereby allow Senior Judge Herman Weber to proceed to trial on the merits of the case-in-chief in timely fashion.

Respectfully submitted,



Herbert E. Freeman [0005364]  
Attorney at Law & Pro Se Defendant  
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CERTIFICATION

On the filing date time-stamped hereon I have sent copies of this pleading by ordinary U.S. Mail (postage prepaid) to:

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Herbert E. Freeman